



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

March 8, 1957.

Honorable John C. White
Commissioner
Department of Agriculture
Capitol Station
Austin, Texas.

OPINION NO. WW-50

RE: The legality of using in Texas the pre-packaged scale that records and prints the net weight of the commodity weighed in pounds and hundredths of pounds, rather than in pounds and ounces.

Dear Mr. White:

In your recent request for an opinion of this office, you inquire as to the legality of using in Texas the pre-packaged scale that records and prints the net weight of the commodity weighed in pounds and hundredths of pounds rather than in pounds and ounces. You further state that such a scale is now in production and you are wondering if the provisions of Article 5371, Vernon's Civil Statutes, and Regulation (e) (1) of your department promulgated by the Commissioner under the authority of House Bill 29, Acts of the 47th Legislature, R.S., ch. 624, p. 1374, prevent the legal use of the scale in Texas.

Article 5731, Vernon's Civil Statutes, reads as follows:

"The units or standards of weight from which all the other weights shall be derived and ascertained shall be the standard of avoirdupois and troy weights designated in this chapter, and avoirdupois pounds shall bear to the troy pounds the ratio of seven thousand to five thousand seven hundred and sixty grains, and the avoirdupois pound shall be divided into sixteen equal parts called ounces. The hundred weight shall consist of one hundred avoirdupois pounds, and twenty hundred weight shall constitute a ton. The troy ounce shall be one twelfth of a troy pound."

Section C.(1) of House Bill 29, Acts of the 47th Legislature, R. S., ch. 624, p. 1374, reads as follows:

"It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form unless (a) the net quantity of contents, in terms of weight, measure, or numerical count, and (b) the name and place of business of the manufacturer, packer, or distributor shall be plainly and conspicuously marked on the outside of the package. Provided, however, that under Clause (a) of this Section reasonable variations or tolerances shall be permitted, and exemptions as to small packages shall be made; and that under Clause (b) of this Section exemptions as to packages sold on the premises where packed shall be made. And provided further, that this Section shall not be construed to apply to those commodities in package form, the manner of sale of which is specifically regulated by the provisions of other Articles of the Statutes, or to bales of cotton; and that reasonable rules and regulations for the efficient enforcement of this Act, not inconsistent herewith, and including the reasonable variations or tolerances and the exemptions prescribed herein, shall be made by the Commissioner."

The Commissioner has promulgated rules and regulations under the provisions of Section C.(1), and Regulation (e) (1) reads in part as follows:

"A statement of weight shall be in terms of the avoirdupois pound and ounce."

Article 5731 provides standards of weight from which all other weights shall be derived and ascertained but does not require all weights to be stated in pounds and ounces, and therefore in our opinion does not prevent the legal use of the scale in Texas.


Regulation (e) (1), as quoted above, in our opinion, would not prevent the legal use in Texas of such pre-packaged scale that records and prints the net weight in pounds and hundredth pounds because such regulation requires that a statement of weight shall be in terms of the avoirdupois pound and ounce.

SUMMARY

Neither Article 5731, Vernon's Civil Statutes, nor Regulation (e) (1) promulgated by the Commissioner of Agriculture prohibits the use in Texas of a pre-packaged scale that records the "net weight" of a commodity in pounds and hundredths of pounds.

Very truly yours,

WILL WILSON
Attorney General

By 
John H. Minton, Jr.
Assistant Attorney General

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APPROVED:

OPINION COMMITTEE

H. Grady Chandler
Chairman.